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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,311	10/26/2001	Reginald Wayne Clark	70625	7387
22242	7590	09/07/2005		
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			EXAMINER VANORE, DAVID A	
			ART UNIT	PAPER NUMBER
			2881	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,311

Applicant(s)

CLARK ET AL.

Examiner

David A. Vanore

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 and 23-30 is/are allowed.
- 6) ☒ Claim(s) 16, 18, 19, 22, 31 and 33-36 is/are rejected.
- 7) ☒ Claim(s) 17, 20, 21, 32 and 37 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06/04/02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Allowable Subject Matter

1. Applicant is advised that the Notice of Allowance mailed February 16, 2005 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.
2. Claims 1-15 and 23-30 are allowed.
3. The following is an examiner's statement of reasons for allowance:
4. Independent claims 1, 8, 23, 30 recite limitations not contained in the prior art, namely a light source comprising an ultraviolet flashlamp, a contact lens container including a backing material forming a cavity with a blister, an a light transparent container in which a contact lens is contained. The prior art of Baron teaches a light source comprising an ultraviolet bulb which is turned on, then off and is not constituted by a flashlamp. A single pulse of light is applied to the contact lens, therefore providing a flashlamp whose purpose is multiple rapid flashes of light is not an obvious modification of the prior art.
5. Further, Baron fails to teach or suggest providing a "backing" material which in conjunction with a blister forms a cavity in which a contact lens is sealed.

6. Finally, the container (40) of Baron is not light transmissive. There is a window element coupled to the container (112) which is transparent to light and covers the cavity formed in the contact lens containment means of Baron. Note Fig. 2, 4, and 5.

7. For these reasons, claims 1, 8, 23, and 30 diverge from the prior art, especially that of Baron. Their dependent claims 2-7, 9-15, and 24-29 are allowable by virtue of their dependency.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. Claims 17, 20-21, 32, and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: Each of claims 17, 20-21, 32, and 37 contain at least one of the limitations discussed above in the reasons for allowance and are therefore indicated as being allowable.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2881

12. Claim 16, 18-19, 22, 31, and 33-36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Baron (USPN 4,063,890).

13. Baron teaches a method and apparatus for deactivating micro-organisms where a sealed contact lens container (40) is provided with a contact lens (80) immersed in a preservative fluid, namely saline fluid, (Col. 2 Lines 62-68), and further where an ultraviolet light source (44) in the form of an ultraviolet bulb is provided which generates one pulse of polychromatic light having a peak emission wavelength longer than 221 nanometers, said light being transmitted through a window (112) which is transparent to ultraviolet light such that light of 260 nm is also incident on the contact lens, said light deactivating microorganisms on a contact lens (Col. 4 Lines 22-34) as recited in claims 16, 18-19, 22, 31, 33-36.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Vanore whose telephone number is (571) 272-2483. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (571) 272-2477. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dav


JOHN R. LEE
SUPERVISORY PATENT EXAMINER
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